

FACT SHEET - #24

SUBJECT: Stay of Legal Proceedings Under the Soldiers' and Sailors' Civil Relief Act

1. **PURPOSE.** To inform commanders of the protections provided soldiers under the Soldiers' and Sailors' Civil Relief Act.

2. **FACTS.**

a. The Soldiers' and Sailors' Civil Relief Act (SSCRA), Title 50, Appendix, United States Code, affords legal protections to individuals on or called to active duty. Protection begins upon entering active duty and terminates 30 to 90 days after discharge from active duty.

b. Under the SSCRA, a soldier in a civil legal proceeding is entitled to a stay of that proceeding if he can demonstrate his military duties will "materially effect" his ability to prosecute or defend the legal action. Material effect can be shown by proving military duties will prevent the soldier from appearing in court at the designated time.

c. If a soldier receives a court summons requiring his appearance, he should not ignore it. A failure to appear can result in a default judgment being entered against the soldier. A soldier who cannot attend a hearing should contact a legal assistance attorney. The attorney will draft a letter to the court requesting a stay until the soldier can attend.

d. If a soldier receives a notice informing him a default judgment has been issued against him, he should not call or write the court until he has sought legal assistance. The SSCRA provides a soldier certain protection against default judgments, but only if the soldier has not made an appearance before the court. Contacting the court in any way can be considered an appearance. A Legal Assistance attorney will be able to advise a soldier on how to properly handle this matter.

3. POC is the Administrative Law Division at 4-7414/4668.

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